

JUDGE BERMAN

09 CIV 5588

UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF NEW YORK

CAROL DOBSON

Plaintiff,

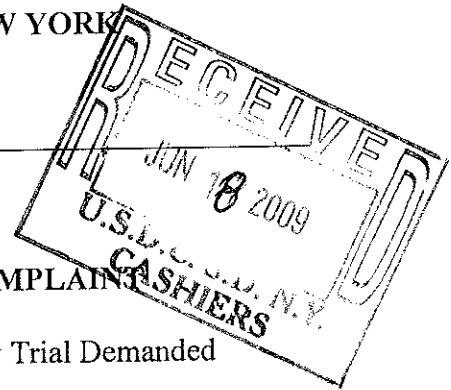
vs.

ELTMAN, ELTMAN & COOPER, PC
Defendant.

Case No. _____

COMPLAINT

Jury Trial Demanded



PLAINTIFF, CAROL DOBSON ("Plaintiff"), by and through the undersigned attorney, files this Complaint against DEFENDANT, ELTMAN, ELTMAN & COOPER, PC ("Defendant"), and alleges as follows:

I. INTRODUCTION

1. This is an action for damages brought by an individual consumer for Defendant's violations of the following provisions, resulting from abusive behavior against Plaintiff in the course of Defendant's attempt to collect a debt:

(1) The Fair Debt Collection Practices Act, 15 U.S.C. § 1692, *et seq.*
(hereinafter "FDCPA").

II. JURISDICTION

2. The FDCPA claim arises under 15 U.S.C. § 1692k(d), and therefore involves a "federal question" pursuant to 28 USC § 1331.

III. PARTIES

3. Plaintiff, CAROL DOBSON ("Plaintiff"), is a natural person residing in New York County, New York.

4. Defendant, ELTMAN, ELTMAN & COOPER, PC, ("Defendant") is a corporation engaged in the business of collecting debts by use of the mails and telephone, and Defendant regularly attempts to collect debts alleged to be due another.

IV. FACTUAL ALLEGATIONS

5. Defendant is a "debt collector" as defined by the FDCPA, 15 U.S.C. § 1692a(6).
6. Plaintiff is a "consumer" as defined by the FDCPA, 15 U.S.C. § 1692a(3).
7. All activities of Defendant set out herein were undertaken in connection with the collection of a "debt," as defined by 15 USC § 1692a(5).
8. Within the last year, Defendant contacted Plaintiff by telephone in an attempt to collect an alleged outstanding debt. During that telephone conversation, Defendant performed the following acts, which amount to violations under various federal and state laws:
 - a) Engaging in conduct the natural consequence of which is to harass, oppress, or abuse any person in connection with the collection of a debt, including causing a telephone to ring repeatedly or continuously with the intent to annoy, abuse, or harass any person at the called number (§ 1692(d)(5));
 - b) Failing to cease communication with the Plaintiff after she specifically requested that Defendant cease all further communication with the her in attempts to collect this alleged debt (§ 1692c(c));

- c) In connection with collection of a debt, using language the natural consequence of which was to abuse Plaintiff, i.e. Defendant calling Plaintiff at her home and becoming hostile and belligerent with Plaintiff, stating that Plaintiff had not made a payment on a nine (9) year old account, and, after Plaintiff requested validation of the debt, Defendant refused and shouted Youve been sued on this debt! Now just call us back when youre ready to make payment! (§ 1692d(2));
- d) Falsely representing the character, amount, or legal status of Plaintiffs debt, including Defendant seeking an amount not authorized by the underlying contract and failing to provide Plaintiff with any documentation whatsoever tending to support the grossly inflated amount(s) sought by Defendant (§ 1692e(2)(A));
- e) Failing to provide Plaintiff with the notices required by 15 USC § 1692g, either in the initial communication with Plaintiff, or in writing within 5 days thereof, including failing to provide Plaintiff with any written communication whatsoever in effort to validate the debt (§ 1692g(a);
- f) Using false, deceptive, or misleading representations or means in connection with the collection of a debt, including Defendants false representation to Plaintiff that the Defendant was not legally estopped from initiating the legal process on a debt that was barred by the applicable statute of limitations (§ 1692e(2)(A)); and

g) Using unfair or unconscionable means against Plaintiff in connection with an attempt to collect a debt, including fraudulently obtaining a judgment against Plaintiff without first perfecting service and/or falsifying service upon Plaintiff in order to prevent the raising of Plaintiffs defenses, including, but not limited to, the appropriate statute of limitations, and thereafter seeking to convert the fraudulently obtained judgment into an order of garnishment (§ 1692f).

9. As a result of the aforementioned violations, Plaintiff suffered and continues to suffer injuries to Plaintiff's feelings, personal humiliation, embarrassment, mental anguish and severe emotional distress.
10. Defendant intended to cause, by means of the actions detailed above, injuries to Plaintiff's feelings, personal humiliation, embarrassment, mental anguish and severe emotional distress.
11. Defendant's action, detailed above, was undertaken with extraordinary disregard of, or indifference to, known or highly probable risks to purported debtors.
12. Defendant's actions, detailed above, constituted an extraordinary transgression of the bounds of socially tolerable conduct
13. To the extent Defendant's actions, detailed above, were carried out by an employee of Defendant, that employee was acting within the scope of his or her employment.

PRAYER FOR RELIEF

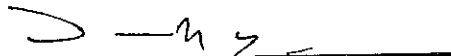
WHEREFORE, Plaintiff respectfully prays that judgment be entered against the Defendant for the following:

- A. Declaratory judgment that Defendant's conduct violated the FDCPA;
- B. Actual damages pursuant to 15 USC 1692k;
- C. Statutory damages pursuant to 15 U.S.C. § 1692k;
- D. Costs, disbursements and reasonable attorney's fees for all successful claims, and any unsuccessful claims arising out of the same transaction or occurrence as the successful claims, pursuant to 15 U.S.C. § 1692k; and,
- E. For such other and further relief as may be just and proper.

This 3rd day of June, 2009.

ATTORNEYS FOR PLAINTIFF
CAROL DOBSON

Respectfully submitted,


Dennis R. Kurz
NY Bar No. 4570453
Kurz & Fortas, LLC
Attorneys for Plaintiff
80 Broad Street, 5th Floor
New York, NY 10004
(404) 856-3888
(404) 856-3892 (fax)
dkurz@kurzandfortas.com

PLEASE SEND ALL CORRESPONDENCE TO:

Dennis R. Kurz
Kurz & Fortas, LLC
1932 North Druid Hills Road, Suite 200
Atlanta, Georgia 30319

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*Complaint
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